

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

*The County of Summit, Ohio, et al. v. Purdue
Pharma L.P., et al.*

Case No. 18-op-45090

MDL No. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**MANUFACTURER DEFENDANTS' JOINT MOTION TO DISMISS
PLAINTIFFS' SECOND AMENDED COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Manufacturer Defendants¹ move this Court to dismiss all claims asserted against them in Plaintiffs' Second

¹ "Manufacturer Defendants" refers to Purdue Pharma LP, Purdue Pharma Inc., and The Purdue Frederick Company Inc. ("Purdue"); Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc. ("Allergan/Actavis"); Watson Laboratories, Inc., Actavis Pharma, Inc.; Actavis LLC; Teva Pharmaceuticals, USA, Inc.; and Cephalon, Inc. ("Teva"); Johnson & Johnson ("J&J") and Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. ("Janssen"); Endo Health Solutions Inc. and Endo Pharmaceuticals Inc. ("Endo"); Insys Therapeutics, Inc. ("Insys"); and Mallinckrodt LLC ("Mallinckrodt"). Defendant Noramco, Inc., a company referenced in the Second Amended Complaint ("2AC") as a former affiliate of Janssen (*see* 2AC ¶ 80), joins in this Motion to the extent applicable. Noramco does not (and did not at all material times relevant hereto) manufacture, package, brand, market, distribute, or sell the finished drug products at issue in this litigation, and it reserves all rights and defenses specific to it. Although the arguments raised herein apply equally to Teva Pharmaceutical Industries Ltd., Allergan plc, and Mallinckrodt plc, these Manufacturer Defendants do not join this motion because they are an Israeli corporation, Irish holding company, and Irish company, respectively, that have not been served and over which no personal jurisdiction exists. Further, the 2AC added Defendant SpecGX LLC, an affiliate of Mallinckrodt, as a party on May 18, 2018. *See* 2AC at 2 n.2. SpecGX LLC has not been served, but nonetheless adopts in full the arguments made in this Motion. Two new Defendants, Par Pharmaceutical, Inc., and Par Pharmaceutical Companies, Inc. (which is actually now known as Endo Generics Holding), defined collectively by Plaintiffs in the 2AC as "Endo," were only recently named in an amendment to the complaint and have not yet been served. *Id.* The 2AC should, however, be dismissed as to them for the reasons raised in this brief.

Amended Complaint for failure to state a claim upon which relief can be granted. This Motion will be supported by the pleadings, the record, a Memorandum of Law in Support of the Manufacturer Defendants' Joint Motion to Dismiss Plaintiffs' Second Amended Complaint, which is filed contemporaneously herewith and incorporated herein by reference, oral argument, and any other evidence requested or permitted by the Court.

WHEREFORE, the Manufacturer Defendants respectfully request that the Court grant their Motion in its entirety and dismiss all of Plaintiffs' claims against them with prejudice.

Dated: May 25, 2018

Respectfully submitted,

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** denotes national counsel who will seek pro hac
vice admission*

CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2018, a copy of the foregoing **Manufacturer Defendants' Joint Motion to Dismiss Plaintiffs' Second Amended Complaint** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: May 25, 2018

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